

MASTER RESEARCH AGREEMENT

GCA4120

THIS AGREEMENT is made and entered into this ____ day of _____, 2005, between the Washington State Department of Transportation, hereinafter called "WSDOT," and the Washington State University, hereinafter designated as the "Research Agency."

WHEREAS, the Research Agency has the qualified personnel able to conduct Transportation Research, and

WHEREAS, WSDOT desires the Research Agency to conduct specified research projects through the Washington State Transportation Center (TRAC), an arrangement under Interagency Agreement GCA 4047 that facilitates the conduct of basic and applied transportation research among the WSDOT, University of Washington and Washington State University.

NOW THEREFORE, pursuant to chapter 39.34 RCW and in consideration of the terms, conditions, covenants, and performance contained herein or attached as exhibits and incorporated and made a part hereof, the parties hereto agree as follows:

Section 1 Agreement Purpose

1.1 The primary purpose of this Agreement is to provide for the assignment of Research Tasks to the Research Agency. The method of assignment will be by Task Order, an example of which is attached hereto as (Exhibit A). An individual Task Order prepared by WSDOT will be issued for each research project assigned to the Research Agency and only after agreement by the parties as to the scope of work and budget for that Task Order. The Research Agency shall not proceed with any work under the Agreement until receipt of a Task Order executed by all parties. The Task Order is more fully described in Section 2 below. The execution of this Agreement shall not in any manner provide for or imply any agreement on the part of WSDOT to assign any Task Order to the Research Agency.

1.2 The secondary purpose of this Agreement is to provide an opportunity for the Research Agency to obtain WSDOT assistance in the conduct of research. The Research Agency may acquire such assistance on a case by case basis through the preparation of a separate contract which will include a detailed scope of work and a WSDOT cost estimate (showing actual direct and related indirect costs) to provide the requested assistance.

Section 2

Research Project Task Order Elements

2.1 The project purpose, scope of work, method of study, performance milestones, and progress report requirements for a Research Task shall be as described in the Task Order. The project budget detailing the major tasks of the project with their associated cost, including the appropriate Facilities and Administrative rate, and schedule of expenditures will also be included as a part of the scope of work attached to the Task Order.

Section 3

Reports

3.1 The Research Agency shall submit to WSDOT a narrative progress report as specified in the Task Order. Report format and reporting period will be as prescribed by WSDOT in the Task Order. The progress reports are to be concise but in sufficient detail to enable an evaluation of the progress of the Research Task. Research Task reports and items pertaining thereto shall be completed on the date specified in the performance milestones for each Task Order.

3.2 A final report of the findings and results of the research, as well as interim and task reports which provide documentation of technical data and their analysis, shall be prepared by the Research Agency. As a requirement for fulfillment of the Task Order, the Research Agency shall furnish to WSDOT the number of copies of the draft and approved final report as specified in the Task Order. Interim reports, working papers, manuals, and other items are to be submitted as required in the Task Order. The "WSDOT Research Report Requirements" shall be used by the Research Agency as a guide for writing final and interim reports and working papers (see Exhibit B).

Section 4

Term

4.1 The term of this Agreement shall be effective as of the date written above and shall terminate on **June 30, 2009**, unless sooner terminated by compliance with Section 17 of this Agreement.

Section 5

Cost

5.1 The total aggregate amount of Task Orders during the term of this Agreement shall not exceed Ten Million (**\$10,000,000**) Dollars.

5.2 The cost of each Task Order shall be specified within the project Task Order. The project budget shall list line item expenses including, but not limited to, salaries, benefits, equipment, travel, and goods and services, and Facilities and Administration costs, consistent with OMB Circular A-21. The Research Agency shall seek approval in writing from the WSDOT Research Manager for out-of-state travel and equipment not identified within the project scope of work and budget and for any changes that significantly impact the scope of the work performed. Written approval may be made by email

5.3 Any amendment to the total amount of this Agreement or a Task Order shall be in accordance with Section 16.

Section 6 Payment

6.1 The Research Agency shall receive payments totaling but not exceeding the amount specified in the Task Order. Each Task Order is a cost reimbursement agreement.

6.2 Progress payment invoices shall be submitted as stipulated in the Task Order. The total of all such progress payments shall not exceed the total authorized cost of the Task Order less 10% (ten percent) or less \$10,000, whichever is the lesser amount. Progress payment invoices which exceed the amount payable under this section will be held for payment until the payment of the final payment as noted in Section 6.3 below. Progress payment invoices shall be identified by the word "Progress" (or similar).

6.3 Final payment of any remaining balance of the amount due to the Research Agency will be paid upon receipt of a final invoice and WSDOT's receipt of the completed Final Report or other required Task Order products. The final invoice shall be submitted within 60 days of end date of the project and receipt of the final product or the termination of this Agreement and shall be identified by the word "Final".

6.4 Audits will be made in accordance with current State Law and Federal OMB Circular A-133. The Research Agency shall keep available for inspection by representatives of WSDOT and the United States, for a period of three (3) years after receipt of final payment, the cost records and accounts pertaining to the Agreement and any Task Order issued under this Agreement.

Section 7 Source of Funds

7.1 Unless otherwise indicated in the Task Order, funds made available under 23 U.S.C. Section 120, with the appropriate proportion of State matching funds, will be used as payment.

Section 8

Subcontracting

8.1 The Research Agency shall not assign, subcontract, or transfer any of the work other than as authorized by the approved Task Order without prior written approval from WSDOT.

8.2 Subcontractors shall be required to be in compliance with Title VI, Civil Rights Act of 1964, attached hereto as "Exhibit C" and by this reference made a part of this Agreement.

Section 9

Patent Rights and Duties

Should patentable discoveries or inventions result from work described herein, the RESEARCH AGENCY shall maintain effective procedures to adhere to the provisions of Public Law 96-517 and to the implementing regulations of 37 CFR Part 401, including but not limited to the following:

- 9.1. The RESEARCH AGENCY shall disclose each subject invention to WSDOT, the Federal agency providing funding for the research, and other funding partners; make a written election to WSDOT and Federal Agency within two years after disclosure whether it will retain title to the invention(s); agree to file a patent application; and include a statement that the invention was made with Government support.
- 9.2. In the event the RESEARCH AGENCY elects to retain title as described above, the RESEARCH AGENCY shall grant to WSDOT, governmental project partners, and the U.S. Government a nonexclusive, irrevocable, nontransferable, paid-up license to practice or have practiced for or on their behalf any subject invention in the United States, its territories, and throughout the world and such additional rights as conferred by sections 202-204 of Title 35 United States Code.
- 9.3. The RESEARCH AGENCY shall include the following statement in the second paragraph of the specification of the application for any patents issued on a subject invention: "The United States Government and the State of Washington and the project partners have a nonexclusive, irrevocable, nontransferable, paid-up license to practice or have practiced on their behalf any subject invention in the United States, its territories, and throughout the world and such additional rights as conferred by sections 202-204 of Title 35 United States Code." 4.

Should no inventions result from this Agreement, the RESEARCH AGENCY shall provide WSDOT with certification that there were no such inventions at the time of filing the final report as required by this Agreement.

Section 10 Inspection of Work

10.1 WSDOT and the Federal Highway Administration shall at all times be accorded proper facilities for review and inspection of the research work hereunder and shall at all reasonable times have access to the premises, to all data, notes, records, computer programs, correspondence, instructions, and memoranda of every description pertaining to the research work hereunder.

Section 11 Records

11.1 The Research Agency shall maintain accounting records and other evidence pertaining to the costs incurred on each Research Task. These records will be made available for inspection and audit by the State Auditor, WSDOT, and the Federal Highway Administration (FHWA), or their authorized representatives at all reasonable times at the office of the Research Agency. The minimum retention time of these records shall be in accordance with the U.S. Department of Transportation, Federal Highway Administration Common Rule 49CFR18 and/or the Research Agency's Federal Auditor approved policy and procedures on record retention. Copies thereof shall be furnished, if requested, at no cost to the State of Washington, WSDOT or FHWA.

Section 12 Ownership of Data / Software

12.1 The ownership of the data collected under a Task Order, shall be vested in WSDOT. The RESEARCH AGENCY shall retain the right to use such data in its normal education, and research activities. The RESEARCH AGENCY retains the right to use the data in normal extension activities following completion of the study or with approval on its use from the WSDOT TRAC Executive Director if the study is still in progress.

12.2 Computer programs, including source code, developed under a Task Order or derived from data collected under a Task Order ("Software") shall be vested in RESEARCH AGENCY. The RESEARCH AGENCY shall notify WSDOT of the existence of any such Software within sixty (60) days of its disclosure to RESEARCH AGENCY by the developers. RESEARCH AGENCY shall grant to WSDOT, governmental project partners and any Federal Agency providing funding for that specific Task Order a non-exclusive, royalty-free, irrevocable, non-transferable right to use such Software for any purpose such party may deem appropriate.

Section 13

Equipment and Instrumentation

13.1 In order to perform the required work under a Task Order, it may be necessary for the Research Agency to acquire, through purchase or manufacture, apparatus and/or equipment. The cost of acquisition or manufacture will be included in the budget of the Task Order. All apparatus and equipment purchased or manufactured for use by the Research Agency under a Task Order and having been specifically authorized in the Task Order and for which reimbursement is sought shall be used exclusively on the assigned research task and shall remain the property of WSDOT; however, the Research Agency shall be the custodian and will be responsible for maintaining such equipment in working order.

13.2 The Research Agency shall comply with all Federal and State laws and regulations, including Title VI, Civil Rights Act of 1964 (Exhibit C), that pertain to affirmative action when purchasing materials, supplies, and equipment for a Research Task.

13.3 All Major items of equipment and apparatus for which reimbursement is sought and which are not identified specifically and approved as part of the Task Order require written approval by the WSDOT Research Manager for the project prior to purchase. A Major equipment or apparatus item is one costing \$5,000 or more and has a life expectancy of one year or more.

13.4 The Research Agency shall maintain an accurate inventory of all major equipment or apparatus items. The inventory shall also include "small and attractive" nonexpendable equipment items with an acquisition cost of less than \$5,000, as specified in State Administrative and Accounting Manual 30,40,20.

13.5 A complete inventory of all equipment and apparatus acquired by the Research Agency for research and other assigned tasks shall be submitted to WSDOT on or before July 1 of each year and shall be attached to the final invoice of each Task Order. WSDOT will notify the Research Agency within thirty (30) days of receipt of the final inventory as to final disposition of the inventory. The following shall be furnished for each inventory item: (a) item name, (b) date of acquisition or manufacturer, (c) serial number, (d) make/model identification, (e) Research Agency's identification number, if different than "C," (f) physical location, and (g) purchase price. In the event WSDOT determines that any equipment or apparatus is to be transferred from Research Agency's facilities to another location, WSDOT shall pay the cost of transporting such equipment or apparatus.

Section 14 Travel

14.1 Out-of-state travel which is not specifically identified, by purpose or event, date and location, in the approved Task Order, must have prior written approval of the WSDOT Research Manager for the project to be eligible for reimbursement. Written approval may be made by e-mail, authorizing travel by the appropriate WSDOT authority. Current State of Washington travel regulations and rates shall apply to all in-state and out-of-state travel for which reimbursement is claimed during the term of a Task Order.

Section 15 Publication

15.1 The Research Agency shall not release, either orally or in writing, information or other material developed during a Research Task prior to submission of the completed Final Report to WSDOT, except with the prior written approval of WSDOT. The Final Report will be considered completed when WSDOT and the Principal Investigator have worked together on the review of the draft report and have considered, in good faith, the comments provided by WSDOT for incorporation into the Final Report. The Parties do not seek to limit discussions of the Research Task within small informal technical groups or lectures to employees or students in an educational setting. Lectures to other groups that describe the research methodology but disclose neither data nor results are permissible without WSDOT advance approval.

15.2 Nothing in this Agreement shall be construed to affect the preparation and filing of theses by students working on a Research Task in accordance with the practices normally followed or required by the Research Agency. All reports published shall contain the following statement on the Credit Sheet: "The contents of this document reflect the views of the author(s), who is (are) responsible for the facts and the accuracy of the data presented herein. The contents do not necessarily reflect the official views

or policies of the Washington State Transportation Commission, Department of Transportation or the Federal Highway Administration. This report does not constitute a standard, specification or regulation.”

15.3 The final document must include one of the following statements, depending on the funding source, on the cover or frontispiece:

Prepared for Washington State
Department of Transportation

or

Prepared for
Washington State Department of Transportation
and in cooperation with
U.S. Department of Transportation
Federal Highway Administration

- 15.4 WSDOT will notify the Principal Investigator (the person designated in the Task Order to conduct the Research Task) of which statement to use prior to delivery of the final report. Required formatting for the technical page and the WSDOT research document (WA-RD) report guidelines is contained in the WSDOT Research Program Manual and available at the following website: www.wsdot.wa.gov/

Section 16 Amendment

16.1 The Master Research Agreement or a Task Order may be amended to extend the term, change the cost, or to modify the scope of work or phases designated for a Research Task. Task Order or Master Research Agreement amendments will be mutually agreed upon and fully executed in writing prior to the Research Agency performing any work or incurring additional costs.

Section 17 Termination of Contract

17.1 WSDOT may terminate this Agreement or any Task Order upon giving thirty (30) days written notice to the Research Agency. The Research Agency may also terminate this Agreement or any Task Order by giving thirty (30) days written notice to WSDOT. Upon termination of this Agreement, all Task Orders shall automatically terminate. Task Orders may be terminated without termination of the Master Research Agreement.

17.2 The term of each Task Order issued under this Agreement shall be specified in the Task Order. Should a Task Order be terminated prior to fulfillment of the terms stated therein, the Research Agency shall be reimbursed only for actual expenses and noncancelable obligations, both direct and indirect, incurred to the date of termination.

Section 18

Legal Relations

18.1 The Research Agency shall comply with all Federal, State, and Local Laws and Ordinances applicable to the research work to be done pursuant to this Agreement and Task Orders. The Research Agency shall also comply with Title VI, Civil Rights Act of 1964 (Exhibit C).

18.2 To the extent allowed by law, each Party shall protect and hold harmless the other Party from and against all claims, suits or actions arising from any intentional or negligent act or omission of that Party's employees, agents and/or authorized subcontractor(s) while performing under the terms of this Agreement or Task Orders.

18.3 The provisions of this Master Research Agreement and individual Task Orders issued by WSDOT are intended to be mutually complementary. In case of any discrepancy between the provisions, the Task Order shall prevail over the Master Research Agreement .

Section 19

Dispute Resolution

19.1 In the event that a dispute arises under this Agreement, it shall be resolved as follows: The Vice Provost for Research and the Secretary of Transportation shall each appoint a member to a dispute board; these two members shall select a third member not affiliated with either agency. The decision made by this board shall be final and binding on the Parties to this Agreement. Each Party will provide for the cost of their appointed representative and will share equally in the cost of the third member.

Section 20

Venue

20.1 In the event that either Party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement or Task Order(s), the Parties hereto agree that any such action shall be initiated in the Superior Court of the State of Washington, situated in Thurston County. The parties hereto agree that all questions shall be resolved by application of Washington law and that the Parties to such action shall have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington.

Section 21

Assistance From the State

21.1 Pursuant to paragraph 1.2, the Research Agency may desire the assistance of WSDOT in performing portions of some Research Tasks. These Research Tasks may be those established by Task Order under this Agreement or projects may be funded by other sources. Requests for WSDOT assistance shall come in the form of a written proposal prepared by the Research Agency which shall include a detailed scope of work, describing the assistance requested. WSDOT will respond with a detailed cost estimate for the assistance requested. A Task Order may be amended to include provisions for assistance to be provided by WSDOT or a separate agreement may be developed to provide such assistance. Either the Task Order or the separate agreement will specify the assistance to be provided and the cost, including actual, direct and related indirect costs, as well as billing and payment procedures.

21.2 The Research Agency may request qualified WSDOT personnel to teach classes, ranging from a single lecture to an entire class. WSDOT will evaluate the availability of the WSDOT personnel requested and notify the Research Agency of its approval or denial of such teaching assignments. The Research Agency agrees to reimburse the WSDOT for its employees full salary, benefits, travel costs and per diem, if applicable, when WSDOT personnel are used in this manner. All terms of such employment will be reflected in a separate agreement.

Section 22

Exhibits

The following exhibits are attached hereto and incorporated by this reference:

Exhibit A – Task Order

Exhibit B – WSDOT Research Report Requirements

Exhibit C – Title VI, Civil Rights Act fo 1964

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year last written below.

WASHINGTON STATE UNIVERSITY

By _____ Date _____
James N. Peterson
Vice Provost, Research

Approved as to form

_____, 200 ____

By _____
WSU Assistant Attorney General

STATE OF WASHINGTON
WASHINGTON STATE DEPARTMENT OF
TRANSPORTATION

By _____ Date _____
JOHN CONRAD
Assistant Secretary
Engineering and Regional Operations

Approved as to form

_____, 200 _____

By _____
WSDOT Assistant Attorney General

Exhibit “B”
Report Requirements

Washington State Department of Transportation (WSDOT) research project report requirements can be found at <http://www.wsdot.wa.gov/Research/>. Should internet access not be available please contact the WSDOT Research Office at 360-705-7971 for a printed copy of the requirements.

Exhibit “C”

Title VI, Civil Rights Acts of 1964

During the performance of this agreement, the Consultant,* for itself, its assignees and successors in interest, hereinafter referred to as the “Consultant,” agree as follows:

1. **Compliance With Regulations:** The Consultant will comply with the Regulations of the Department of Transportation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the Regulations, which are herein incorporated by reference and made a part of this agreement.
2. **Nondiscrimination:** The Consultant, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the ground of sex, race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Consultant will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix A-11 of the Regulations.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant’s obligations under this contract and the Regulations relative to nondiscrimination on the grounds of sex, race, color or national origin.
4. **Information and Reports:** The Consultant will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State Transportation Department or the Federal Highway Administration to be pertinent to ascertain compliance with such regulations, orders and instructions. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the State Transportation Department, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the Consultant’s noncompliance with the nondiscrimination provisions of this contract, the State Transportation Department shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding of payment to the Consultant under the contract until the Consultant complies, and/or
 - b. Cancellation, termination or suspension of the contract, in whole or in part.
6. **Incorporation of Provisions:** The Consultant will include the provisions of paragraph (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto. The Consultant will take such action with respect to any subcontract or procurement as the State Transportation Department or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the Consultant becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such

* Note: Any references to “Consultant” should read to mean “Research Agency.”

direction, the Consultant may request the State to enter into such litigation to protect the interest of the United States.